

Applicants Response to Examiner's Comments

Claim Rejections – 35 USC § 102(e)

Examiner rejects Claims 1-5, 8, 9, 12, 13 and 15-17 under 35 U.S.C. 102(b) as being anticipated by Brunetto (6,294,240). Examiner states that Brunetto shows a protective cover 10, capable of being used as an animal bed, for a heat emitting structure/vehicle comprising fabric 48 having a sensual quality pleasant to a plurality of animals including cats and dogs; and further that the cover 10 being substantially a rectangle and having a surface area large enough to comfortably contain the animal using it, at least 20 inches preferably larger to allow larger or multiple animals to use the cover.

Applicant replies that Brunetto teaches away from Applicant's Invention of a protective cover in fundamental aspects, to include (a.) coupling the protective cover to the vehicle, (b.) encouraging transfer heat from a heat emitting structure to a surface area, (c.) having a pleasant odor, and (d.) capability of use as an animal bed.

Regarding the capability of coupling a protective cover to the vehicle, Brunetto discloses a mat 12 that maintains a position on the floor of a vehicle solely by force of gravity and inertia, and that a cover 10 merely (partially or fully) envelopes the mat without providing any additional attachment of the cover and mat to the vehicle (col. 5, lines 20-35). Applicant further notes that Brunetto discloses "an easily removable, cleanable, and reusable protective cover for a floor mat of a motor vehicle" (see col. 1, lines 49-50) configured to protect "a motor vehicle conventional floor mat" and wherein the cover comprises "a removable fabric protectively enclosing the top side of the mat" (see col. 1, lines 53-55). Examiner states that the fabric 48 of Brunetto contains an

attachment means 36 for attaching to the cover 10 and the cover 10 having an attachment means 32 for attachment to the heat emitting structure. Applicant replies that Brunetto's cover 10 is attached to a floor mat 12 by attachment means of a generally oblong continuous biasable strip 36 (see FIG. 1, col. 4 lines 39-67, and col. 5, lines 1-5), but neither the mat nor the cover are attached to the vehicle by an attachment means 36 under Brunetto. Like a conventional vehicle floor mat in isolation, the cover-and-mat combination of Brunetto is held in place by gravity, frictional resistance and inertia. Furthermore, attaching the cover-and-mat of Brunetto to the vehicle would make removing the cover more difficult and degrade the convenient use and replacement of the cover (see col. 2. lines 1-4). In contrast, and as per Claim 1 of Applicant's Disclosure, the Applicant provides an "attachment means configured to removably couple the fabric to a vehicle". Applicant respectfully submits that locating a mat-and-cover, as taught by Brunetto, on a surface of a floor of a vehicle does not affect a removable coupling of the mat-and-cover to the vehicle, and that the Present Invention is thereby distinguished as novel and non-obvious from Brunetto and the Prior Art.

Regarding the quality of heat transfer, Examiner holds that unless specifically designed against it, the fabric 48 of Brunetto can transmit heat or have heat be felt through it. Applicant respectfully replies that Brunetto specifies a cover 10 that is "preferably made of a polyester pile fabric that generally matches the fabric used in motor vehicles" (see Abstract, sixth sentence). Applicant further notes that Brunetto teaches of a cover 10 that is designed when in use to reside between a vehicle floor and an occupant's feet (see FIG. 8, and col. 6, lines 7-11). Applicant therefore maintains that transferring heat to the occupant's feet would therefore be a limitation to the breadth of

use of Brunetto's invention, and is taught away from by the preferred use of heat-transfer resistant materials like polyester pile fabric. Brunetto clearly teaches away from a unified fabric that is selected to both efficiently conduct heat and is attached to a vehicle without enclosing another mat or additional removable material. Brunetto therefore teaches away from enabling heat to flow through the cover to the occupant's feet, as such as quality of heating the occupant's feet would be an quality unanticipated by Brunetto and a provide a quality undesirable in many foreseeable applications of Brunetto's cover.

Regarding a quality of providing a pleasant odor, Brunetto merely notes that a conventional mat 12 can become "contaminated with . . . with substances that create odors" (see col. 1, lines 19-25). Brunetto than proposes that a cover 10 designed to enclose a mat 12 and that is be configured for removal and cleaning (see col. 2, lines 29-33). In contrast, and as per Claims 2 -5 of the Applicant's Disclosure, the Present Invention is designed to affirmatively provide odors pleasant to an animal rather than merely enabling removal by cleaning of odorous contamination.

Regarding the pillow section element of Claim 8 of Applicant's Disclosure, Examiner considers that any part of Brunetto's cover 10 can act as a pillow section, since no other structure is noted, a pillow section can be any area where the animal places it's head down, that area being a 'pillow' section for the head of the animal. Applicant notes that Applicant's Disclosure teaches the following (see Page 12, lines 14-19 of Applicant's Disclosure):

"The pillow section 56 includes a stuffing 62 located between the top sheet 4A and the bottom sheet 4B. A thinned area 64 provides resting space for the animal while

providing access to the animal to the pillow section 56. Conversely the animal, if appropriately sized, can wholly or partially rest or stand on the pillow section 56.”

Applicant respectfully notes that Brunetto fails to disclose or anticipate a raised and lowered section of the cover 10 and floor mat 12 combination. Furthermore, a raised section under Brunetto could form an impediment to free motion of the occupant's feet along the surface of the cover 12; a raised pillow section is therefore taught away from by Brunetto. In addition, the provision of a raised pillow section by the Present Invention provides a more comfortable and attractive location to rest a head for mammals having an anatomy wherein the weight load of a head is generally placed upon a neck and shoulder structure, wherein greater comfort is afforded by the Present Invention over Brunetto by allowing the animal to rest its shoulders upon a thinned area 64 while its head upon the pillow section 56.

Examiner holds that once the fabric is removed from the cover 10, the fabric 48 is configured for roll-up. Applicant respectfully responds that Applicant's Disclosure teaches of a cover that may be rolled up in its entirety and without removal of an internal component or stiffener, such as Brunetto's mat 12. Brunetto's cover in isolation may be rollable, but is not deployable in isolation as a protective cover without inclusion of the relatively stiff “motor vehicle conventional floor mat” 12 made of polyester pile fabric

Examiner rejects Claims 18-20 under 35 U.S.C. 102(b) as being anticipated by Flesher (5,158,324). Examiner states that Flesher shows a cover 100, capable of being used as a cushion by a cat, comprising a pad having a top and opposing bottom, the top forming a surface for the cat to lie upon and a plurality of magnets 104 coupled with the pad 100 for easily removing the cover 100 from the metallic hood of a vehicle. Applicant

respectfully replies is distinguished from the Present Invention in that Flesher discloses sheets 30 of material 100, the material 100 having a continuous under-sheet of a magnetic base portion 104 and a protective upper-sheet comprising a resilient top portion 102.

Quoting now from Flesher' description of FIG. 3, col. 4, lines 43-55:

“the preferred flexible material 100, having a resilient top portion 102 and a magnetic base portion 104. The magnetic base portion is preferably a thermoplastic material having a permanent magnet base portion 104 which may be double polarized. B. F. Goodrich is marketing a similar material under the trade name KOROSEAL.

The magnetic base portion 104 of the flexible material 100 is preferably from 0.01 to 0.18 inches thick and is preferably made of barium ferrite bound with 8 to 20 percent of a synthetic elastomeric binder, such as rubber. The resilient top portion 102 is preferably a vinyl material, having a thickness from 0.001 to 0.18 inches.”

Applicant respectfully replies that Applicant's Claims 18, 19 and 20 comprise “a plurality of magnets” coupled with “a pad” (see Claim 20 herein), rather than a sole magnet comprised within an expanding across an entire bottom of the pad (as per Flesher) and that Claims 18, 19 and 20 describe a distinguishable, novel and non-obvious invention and are therefore allowable.

Claim Rejections – 35 USC § 103

Examiner rejects Claims 4 and 5 under 35 U.S.C. 103(a) as being unpatentable over Brunetto in view of McAlister (5,363,804). Examiner first notes that Bruneto does

not teach the use of a pleasant odor. Examiner then states that McAlister shows a protective cover 10 comprising fabric 12 having a sensual quality pleasant to a plurality of animals including cats and dogs, and further that the cover 10 being substantially a rectangle and having a surface area large enough to comfortably contain the animal using it, at least 20 inches preferably larger to allow larger or multiple animals to use the cover. Examiner also states that the cover 10 additionally contains an odor pleasant to at least some animals such as cats, ccl. 3, lines 39-41. Examiner asserts that with respect to claims 4 and 5, to use the odor teaching of McAlister with the fabric cover of Brunetto would have been obvious to one skilled in the art in order to eliminated unpleasant odor from the area of use around the cover.

Applicant respectfully replies that McAllister makes no mention of odors or olfactory qualities of a pet cushion, and in fact limits consideration of the disclosure to "a pet cushion, preferably for cats, that has a texture and resilience attractive to cats", (see col. 2, lines 46-49). McAllister does teach of adding flea-retardants (see claims 1 and 8 therein), but makes no anticipation of materials, e.g., catnip, that attract cats by odor. As Brunetto merely describes cleaning a cover 10, and McAllister fails at all to mention attraction by odor, Applicant respectfully submits Claims 4 and 5 as newly amended to include a material that emits an attractive scent is not anticipated by nor made obvious in light of Brunetto, McAllistar and the Prior Art.

Examiner rejects Claims 6 and 7 under 35 U.S.C. '103(a) as being unpatentable over Brunetto in view of Moore et al (5,144,911). Examiner first notes that Brunetto does not teach the use of fleece. Examiner then states that Moore et al show an animal bed 10

having a cover 16 composed of fleece, see col. 3, line 1. Examiner further states that, with respect to claims 6 and 7, to use the fleece material of Moore et al with the cover of Brunetto would have been obvious to one skilled in the art as a replacement of functional equivalents. Applicant respectfully replies that Claims 6 and 7 are dependent upon Claim 1 as newly amended, and are therefore allowable.

Examiner rejects Claim 10 under 35 U.S.C. 103(a) as being unpatentable over Brunetto in view of Kaplan (D447,607). Examiner first notes that Brunetto does not teach the use of a shape. Examiner states that Kaplan shows a pet bed formed in the shape of a cartoon character. With respect to claim 10, to use the shaped bed of Kaplan with the cover of Brunetto would have been obvious to one skilled in the art in order to alter the aesthetic appeal of the device. Applicant respectfully replies that Claim 10 is dependent upon Claim 1 as newly amended, and is therefore allowable.

Examiner rejects Claim 11 under 35 U.S.C. 103(a) as being unpatentable over Brunetto. in view of Sandbeck (D465,687). Examiner notes that Brunetto does not teach the use of a logo. Examiner states that Sandbeck shows a protective cover having a shape on the surface such as a logo, see fig. 7. Examiner holds, that with respect to claim 1, to use the logo of Sandbeck with the cover of Brunetto would have been obvious to one skilled in the art in order to alter the aesthetic appeal of the device. Applicant respectfully replies that Claim 11 is dependent upon Claim 1 as newly amended, and is therefore allowable.

Examiner rejects Claims 18-20 under 35 U.S.C. 103(a) as being unpatentable over Brunetto in view of Wechsler (6,751,816). Examiner notes that Brunetto does not teach

rolling or hanging of the device for storage. Examiner states that Wechsler shows a cover 50 capable of being used as an animal cushion configured for roll-up, see figures 4-6, the cover 50 also having a hanging feature 53 to allow the cover to be stored by hanging. Examiner asserts that, with respect to claims 12 and 18, to use the strap 53 of Wechsler with the device of Brunetto as an attachment means would have been obvious to one skilled in the art in order to secure the device to its location so that the animal using the device does not push the device from its resting area. Applicant replies that Claim 12 is cancelled, and that Claim 18 uses magnets for attachment and does not comprise a strap or other hanging feature.

Examiner holds that, with respect to claims 13 and 14, to use the roll-up and hanging feature of Wechsler with the device of Brunetto would have been obvious to one skilled in the art in order to provide various space-saving methods of storing the device when not in use. Applicant refers Examiner to Applicant's discussion regarding "Allowable Subject Matter" provided below and regarding Claims 13 and 14 as newly amended.

Examiner further holds that, with respect to claims 19 and 20, the cover of the combination of Brunetto and Wechsler capable of being placed on the hood of a vehicle would have been obvious to one skilled in the art in order to give the animal the benefit of the heat emitted and the height of the vehicle, further the cover can be used on any flat or mostly flat surface of the owner's choosing. Applicant responds that Claim 19 and 20 are dependent from independent Claim 18 and are therefore allowable.